

FILED

FEB 19 2016

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISIONCLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY

KATHY POWELL

CIVIL ACTION NO.

VS.

SA16CA0170**OG**JUDSON INDEPENDENT SCHOOL
DISTRICT**COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

NOW COMES KATHY POWELL, Plaintiff herein, who files this Complaint and would respectfully show the Court as follows:

1. Plaintiff, KATHY POWELL, is a female citizen of the United States and of State of Texas, who brings this action under Title VII of the Civil Rights Act of 1964 to redress the wrongs done to her by her supervisor at JUDSON INDEPENDENT SCHOOL DISTRICT, in San Antonio, Texas. Such action constituted discrimination on the basis of race.

2 Defendant JUDSON INDEPENDENT SCHOOL DISTRICT, is a local school district, which may be served with process by serving its superintendent, Carl A. Montoya, at 8012 Shin Oak Drive, Live Oak, Texas 78233.

3. The Court has jurisdiction over this lawsuit because the action arises under 42 U.S.C. § 2000e *et seq.*

4. The acts complained herein took place in Bexar County, Texas, where Plaintiff KATHY POWELL was employed as a special education aide in the school year 2014-2015 by Defendant JUDSON INDEPENDENT SCHOOL DISTRICT.

5 At all times relevant to the suit, the Defendant, JUDSON INDEPENDENT SCHOOL

DISTRICT, was engaged in an industry affecting commerce.

6. At all times relevant to this suit, the Defendant has employed more than 165 employees within the meaning of Title VII.

7. On May 16, 2015, Plaintiff, KATHY POWELL, initiated a complaint by contacting the U.S. Equal Employment Opportunity Commission ("EEOC"), alleging that the Defendant, JUDSON INDEPENDENT SCHOOL DISTRICT, had committed an unlawful employment practice against Plaintiff in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.* and the Texas Commission on Human Rights Act, as amended.

8. On or about November 24, 2015, Plaintiff, KATHY POWELL, was informed that she had the right to sue.

9. Plaintiff, KATHY POWELL, is a female, 41 years of age, born on November 19, 1972. Plaintiff began working for the Defendant, JUDSON INDEPENDENT SCHOOL DISTRICT, on or about August 23, 2010. Plaintiff was hired as a substitute teacher.

Conditions Precedent

10. More than 180 days prior to the institution of this lawsuit, Plaintiff filed a charge with the Equal Employment Opportunity Commission, alleging violations of Chapter 21, Employment Discrimination, of the Texas Labor Code. A notice of the right to file a civil action has been issued by the Equal Employment Opportunity Commission. All conditions precedent to the institution of this lawsuit, have been fulfilled. This suit was filed within 90 days after the date a notice of the right to file a civil action was received by Plaintiff and was brought within two years of the date the complaint relating to the action was filed. Attached as Exhibit "A" is the Equal Employment Opportunity Commission Notice of Right to File a Civil Action letter dated November 24, 2015.

Facts

11. Plaintiff began employment with Defendant in 2010 as a substitute teacher. She continued in that position until 2014. She was hired as a fulltime employee as an in-school suspension teacher. In October 2014 she was assigned to a new position as a special education aide, and began working at the Kirby Middle School for Defendant, for the school year 2014-2015.

12. In fall of 2014, after her assignment to Kirby Middle Scholl, an employee of Defendant began to stalk and follow her which continued until the employee was terminated in May 2015. Plaintiff was touched, sexual comments and advances were made against Plaintiff. The conduct was evident in that it was recognized by fellow administrators and teachers. Plaintiff made formal complaint in March 2015 to administrators, and the conduct continued and intensified until Plaintiff filed her EEOC charge and the employee was subsequently fired.

13. Jurisdiction is conferred on this Court by Title 42 of the United States Code Sections 2000e-16 and by Title 28 of the United States Code Section 1343.

14. Venue for all causes of action stated herein lies in the Western District of the State of Texas as the acts alleged as a basis for federal claims took place within the boundaries of that district.

15. Defendant, JUDSON INDEPENDENT SCHOOL DISTRICT, and at all times material hereto, was an employer within the State of Texas and accountable for the actions of its agents and its supervisors.

16. These actions subjected Plaintiff KATHY POWELL, a person within the jurisdiction of the State of Texas, to the deprivation of rights secured to Plaintiff by the Constitution and the laws of the United States, to wit: Plaintiff's right under *Section 2000e of Title 42 of the United States Code*, to be free from discrimination in employment because of a disability and to be protected by

due process of law.

17. As a result of the Defendant, JUDSON INDEPENDENT SCHOOL DISTRICT's conduct as set forth above, Plaintiff, KATHY POWELL, has suffered and will continue to suffer damages for loss of income, loss of benefits, reimbursement for lost experience factor in higher positions, lost promotional opportunities, future loss of income, mental anguish in the past, mental anguish in the future, and cost of procuring future employment in the amount to be determined by the trier of fact.

18. Plaintiff, KATHY POWELL, requests a trial by jury.

Damages

19. Plaintiff sustained the following damages as a result of the actions and/or omissions of Defendant described hereinabove, including but not limited to:

- a. all reasonable and necessary costs incurred in pursuit of this suit;
- b. emotional pain;
- c. expert fees as the Court deems appropriate;
- d. inconvenience;
- e. pre- and post-judgment interest;
- f. loss of enjoyment of life;
- g. mental anguish in the past;
- h. mental anguish in the future;

Prayer

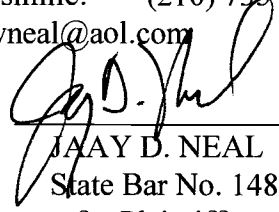
WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon a final hearing hereof, Plaintiff have judgment against the Defendant for a sum within the jurisdictional limits of the Court for;

1. actual damages as described above;
2. exemplary damages, excluding interest, as allowed by TEX. LABOR CODE § 21.2585;
3. prejudgment and post-judgment interest at the highest rate allowed by law;
4. post-judgment interest at the legal rate;
5. cost of suit; and
6. such other and further relief, at law or in equity, to which he may show himself justly entitled to receive.

Respectfully submitted,

LAW OFFICES OF JAAY D. NEAL, P.C.
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BY


JAAY D. NEAL
State Bar No. 14836700
Attorney for Plaintiff

PLAINTIFF DEMANDS TRIAL BY JURY

DISMISSAL AND NOTICE OF RIGHTS

To: Kathy M. Powell
6318 Port Royal St.
San Antonio, TX 78244

From: San Antonio Field Office
5410 Fredericksburg Rd
Suite 200
San Antonio, TX 78229



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

846-2015-23454

Leah M. Sutherlin,
Investigator

(210) 281-7651

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Travis G. Hicks,
Director

11/24/2015

(Date Mailed)

Enclosures(s)

cc: Robert Russo
Walsh Gallegos Trevino and Kyle, PC
One International Centre
100 NE Loop 410
#900
San Antonio, Texas 78246

EXHIBIT "A"